

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

TENTATIVE RESOLUTION NO. R9-2002-0069

**A RESOLUTION CONDITIONALLY WAIVING ADOPTION OF WASTE DISCHARGE  
REQUIREMENTS FOR THE DISCHARGE OF BURN ASH WASTES INTO  
TEMPORARY WASTE PILES DURING CLEANUP AND ABATEMENT OF BURN  
ASH WASTES LOCATED IN PROXIMITY TO 38<sup>th</sup> AND  
QUINCE STREET IN THE CITY OF SAN DIEGO.**

WHEREAS, on May 4, 1999, the City of San Diego submitted a Technical Report entitled “ Site Investigation Report, 38<sup>th</sup> Street Burn Dump, San Diego County, California”, indicating that hazardous wastes (i.e., burn-ash wastes) were located within a residential area in proximity to the intersection of 38<sup>th</sup> and Quince Streets in the City of San Diego; and

WHEREAS, on February 7, 2002, the City of San Diego submitted a Removal Action Workplan for a project to cleanup and abate burn-ash wastes located from the following properties:

<u>Address</u>	<u>Assessor Parcel Number</u>
3018 39 <sup>th</sup> Street	454-481-30
3010 39 <sup>th</sup> Street	454-481-31
3006 39 <sup>th</sup> Street	454-481-32
3015 38 <sup>th</sup> Street	454-481-13
3009 38 <sup>th</sup> Street	454-481-14
3005 38 <sup>th</sup> Street	454-481-15
2968 39 <sup>th</sup> Street	454-611-36
2967 38 <sup>th</sup> Street	454-611-37
2963 38 <sup>th</sup> Street	454-611-38
2959 38 <sup>th</sup> Street	454-611-39

<u>Address</u>	<u>Assessor Parcel Number</u>
2953 38 <sup>th</sup> Street	454-611-40
2933 38 <sup>th</sup> Street	454-611-41
2913 38 <sup>th</sup> Street	454-611-44
Quince Street Right of Way	N/A

WHEREAS, the Removal Action Workplan identifies the preferred remedial action to be excavation and removal of wastes with off site disposal of approximately 5,276 cubic yards of burn-ash wastes (at Kettleman Hills Landfill in Kettleman City, California) ; and

WHEREAS, the Removal Action Workplan proposes to create project specific, temporary waste piles for the purpose of staging wastes just prior to off site disposal; and

WHEREAS, the City of San Diego has entered into a Voluntary Cleanup Agreement with the California Department of Toxic Substances Control (DTSC) for regulatory oversight of the excavation and removal of burn-ash wastes from the properties identified above; and

WHEREAS, the City of San Diego Local Enforcement Agency (LEA) has agreed to provide regulatory oversight of the excavation and removal of burn-ash wastes from the properties identified above; and

WHEREAS, the City of San Diego will complete the cleanup and abatement of wastes outside of the rainy season occurring between November 1, 2001 to April 30, 2002; and

WHEREAS, the duration of the proposed project to cleanup and abate burn-ash wastes will be temporary and it will reportedly be limited to approximately 60 days; and

WHEREAS on February 15, 2002, the City of San Diego submitted a Report of Waste Discharge and supporting documents in application for a waiver from waste discharge requirements for temporary wastes piles generated during a project to cleanup and abate burn-ash wastes located at the properties identified above; and

WHEREAS, Section 13260(a) of the California Water Code requires that any person discharging waste or proposing to discharge waste within any Region file a Report of Waste Discharge; and

WHEREAS, Section 13263(a) of the California Water Code requires that the California Regional Water Quality Control Boards prescribe requirements as to the nature of existing and proposed discharge in their respective areas of jurisdiction; and

WHEREAS, the California Code of Regulations, Title 23, Division 3, Chapter 15, commencing with Section 2510, contain requirements governing discharges of hazardous waste to land; and

WHEREAS, discharges of soil contaminated with petroleum hydrocarbons, other organic constituents, or heavy metals classified as hazardous wastes could affect the quality of the waters of the State and would be subject to regulation under Chapter 15; and

WHEREAS, temporary waste piles of contaminated soils from a single source is the type of management activity that, if conducted with specified conditions, poses little or no threat to the quality of the ground and surface water within this region; and

WHEREAS, Section 13269 of the California Water Code authorizes Regional Boards to waive adoption of waste discharge requirements for a specific discharge or a specific type of discharge where such a waiver is not against the public interest; and

WHEREAS, Section 13269 of the California Water Code states that any waiver of filing a report of waste discharge or waste discharge requirements shall be conditional and may be terminated at any time by the Regional Board; and

WHEREAS, any waiver of waste discharge requirements is conditional, may be terminated for any type of discharge at any time, does not permit an illegal discharge, does not preclude the need permits which may be required by other local or governmental agencies, and does not preclude the Regional Board from administering enforcement remedies, pursuant to Section 13304 or 13350 the California Water Code; and

WHEREAS, a waiver of the adoption of waste discharge requirements, where such a waiver is not against the public interest, would enable Regional Board staff resources to be used more effectively; and

WHEREAS, a waiver of waste discharge requirements for the discharge of contaminated soils for short term storage at temporary waste piles would not be against the public interest because this discharge would comply with the conditions of the waiver, would be effectively regulated by other public agencies, and would not result in violation of the Comprehensive Water Quality Control Plan, San Diego Basin; and

WHEREAS, on February 20, 2002 the Regional Board published a notification to the public of its intent to consider an agenda item to adopt a waiver of Waste Discharge Requirements at during the regular Board meeting to be held on April 10, 2002; and

WHEREAS, on February 22, 2002 the Regional Board sent an additional notification, to the affected residential properties, of its intent to consider an agenda item to adopt a waiver of Waste Discharge Requirements during the regular Board meeting to be held on April 10, 2002; and

WHEREAS, on April 8, 2002 the City of San Diego adopted a Mitigated Negative Declaration for the removal of burn ash wastes and associated soils in accordance with the California

Environmental Quality Act (Public Resources Code, Section 21000 *et seq.*) and State guidelines;  
and

WHEREAS, there will be no significant adverse water quality impacts; and

WHEREAS, the Regional Board held a public hearing on April 10, 2002 in San Diego, California and considered all evidence and public comments concerning this matter.

THEREFORE, BE IT RESOLVED, that pursuant to Water Code Section 13269, the Regional Board waives the adoption of waste discharge requirements for the creation of temporary waste piles during the cleanup and abatement of burn-ash wastes as described above, provided that the discharges shall comply with the conditions set forth in this resolution, the **Comprehensive Water Quality Control Plan, San Diego Basin** (Basin Plan) and the applicable regulations of other public agencies; and further provided that this waiver shall not apply to those discharges for which waste discharge requirements have been previously adopted.

**CONDITIONS FOR TEMPORARY WASTE PILES OF BURN-ASH WASTES**

1. This waiver of waste discharge requirements for temporary waste piles for cleanup and abatement of burn-ash wastes shall expire on **September 30, 2002**.
2. All contaminated soils stored at waste piles established under this waiver shall be from the properties identified in the Removal Action Work Plan (dated February 6, 2002) for the Former Quince Street Burn Site, 38<sup>th</sup> and 39<sup>th</sup> and Quince Streets, San Diego.
3. All waste piles shall be located within the area identified as the “burn-dump footprint” identified in Figure 1 attached to this Resolution.
4. **PROHIBITIONS:** The discharge of waste shall not:
  - a. Cause the occurrence of objectionable tastes and odors in water pumped from basin;
  - b. Cause the presence of toxic materials in waters pumped from the basin
  - c. Cause the pH of waters pumped from the basin to fall below 6.0 or rise above 9.0;
  - d. Cause a condition of pollution, contamination or nuisance or adversely affect beneficial uses of ground or surface waters of the hydrologic subareas established in the Basin Plan.

- e. Cause an illegal discharge of pollutants to the municipal storm water conveyance system.
  - f. The volume of water added for dust suppression must never exceed the moisture holding capacity of an individual waste pile.
5. **SITE CONDITIONS:** The proposed waste pile discharge site shall meet the following conditions:
- a. **Runon/Runoff Protection:** The discharger shall prevent surface runoff/runon from contacting wastes and to prevent erosion and transport of contaminated soils by surface runoff from all waste piles established under this waiver. The discharger shall employ applicable best management practices (BMPs), normally employed to control sediment discharges from construction sites, for storm water conveyance and control.
  - b. **Ground Water Protection:** All waste piles shall be placed at least five feet above the highest anticipated level of ground water.
  - c. **Surface Water Protection:** All waste piles established under this waiver shall be located not less than 100 feet from any surface water identified in the Basin Plan.
  - d. **Flood Protection:** All waste piles established under this waiver shall be protected from flooding and inundation.
6. **WASTE PILE SPECIFICATIONS:** The proposed discharge of wastes into waste piles shall meet the following minimum conditions:
- a. **Volume Limitation:** The temporary waste pile shall not exceed 200 cubic yards of wastes at any point in time.
  - b. **Cover:** During non-working hours and adverse weather conditions, all temporary waste piles shall be overlain by a suitable heavy gauge plastic sheeting (not less than 10 mils thick) to adequately prevent rainwater infiltration, control fugitive dust, and other nuisances.
  - c. **Liner:** A suitable heavy gauge plastic sheeting (not less than 20 mils thick) shall be installed to cover all natural geological materials at a waste management unit likely to be in contact with waste or leachate.
  - d. **Precipitation and Drainage Controls:** Temporary waste piles shall be designed, constructed and operated to limit, to the greatest extent possible, ponding, infiltration,

inundation, erosion, slope failure, and washout. Surface drainage from outside of the temporary waste pile shall be diverted from the location of the temporary waste pile through implementation of BMPs for storm water control and conveyance.

- e. **Site Closure:** By September 30, 2002, wastes discharged to waste piles established under this waiver and any materials used to contain the temporary waste pile shall be removed for disposal in accordance with applicable Federal, State and local requirements.

The discharger shall provide the Regional Board with a copy of the final closure report for the site. The final closure report shall include copies of all manifests and receipts documenting proper off site disposal of wastes (including solid wastes and/or leachate) from the temporary waste pile.

- 6. If return water or ponded water contained within the storage area of the temporary waste will be disposed of at a location other than to a sanitary sewer system, then the discharger shall submit written notification to the Executive Officer prior to initiating the discharger and either: 1) obtain waste discharge requirements; 2) obtain a waiver of waste discharge requirements or 3) obtain a written determination from the Executive Officer that the disposal of the return water or ponded water is not subject to regulation by the Regional Board.

BE IT FURTHER RESOLVED, that the Executive Officer may provide a one-time extension of up to 30 days for good cause, provided that a letter of request from the discharger is received at least 10 working days prior to the maximum period allowed under the applicable Conditions.

BE IT FURTHER RESOLVED, that where staff of this Regional Board considers a waiver of waste discharge requirements for the specific discharge identified herein not to be in the public interest, staff will draft tentative waste discharge requirements for that discharge for consideration by this Regional Board.

I, John H. Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Water Quality Control Board, San Diego Region on April 10, 2002.

**TENTATIVE**  
John H. Robertus  
Executive Officer